

Serial No. 10/613,385  
Docket No. 12207.0900

## **REMARKS**

### **I. Status of Claims**

Applicant replies to the Office Action dated June 7, 2006 within the shortened statutory period for reply. Applicant cancels claim 46 without prejudice to filing one or more applications claiming similar subject matter. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been added. Claims 16-40 and 44 remain pending in the application. In view of the foregoing amendments and the following remarks, reconsideration and allowance of claims 16-40 and 44 is respectfully requested.

### **II. Claims Rejected Under 35 U.S.C. §112, second paragraph**

#### **A. Claims 16-26**

The Examiner has rejected independent claim 16 and claims 17-26 depending therefrom as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Specifically, the Examiner contends with respect to claim 16 that it is unclear how one wall defines an open top area being larger than the area of the floor. (Office Action, page 2). Applicant respectfully traverses this rejection. However, in the interest of compact prosecution, Applicant amends claim 16 to eliminate the language related to multiple walls. Applicant respectfully submits that claim 16 as amended clearly defines an open top area of an enclosure being larger than the area of the floor of the enclosure. As such, Applicant respectfully requests withdrawal of the Section 112, second paragraph rejection of independent claim 16 and claims 17-26 depending therefrom.

#### **B. Claim 44**

With respect to independent claim 44, the Examiner contends that the term "substantially sealed" is a relative term which renders the claim indefinite because the term "substantially sealed" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. (Office Action, page 2). Applicant respectfully traverses.

Applicant respectfully submits that the term "substantially sealed" as recited in claim 44 is definite in view of the guidelines provided in the present specification. Applicant directs the Examiner to paragraph [0099] of the specification which states,

As used herein 'substantially sealed' means sealed sufficiently that air would not leak into enclosure 150 in sufficient quantity to support a

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significant fire therein, and hydrogen would not leak out of enclosure 150 through a leak in enclosure 150 (but not including through end 141 of vent pipe 140) in sufficient quantity to support a significant fire at the location of the leak from enclosure 150.

As such, Applicant respectfully submits that the term “substantially sealed” is definite with respect to claim 44 and requests withdrawal of the Section 112, second paragraph rejection.

**II. Claims Rejected Under 35 U.S.C. §102(e)**

The Examiner rejects claims 16, 17, 21-23, 25-27, 29-32, 35-37, 39, 40, and 44 under 35 U.S.C. §102(e) as being anticipated by Graham et al., U.S. Patent No. 6,810,925 (“Graham”). Applicant respectfully traverses this rejection.

**A. Independent Claim 16**

The Examiner states in the Office Action dated June 7, 2006 that Graham discloses that the “walls bow out from the floor that supports the hydrogen equipment and therefore lean away from the equipment.” However, Applicant was unable to find this feature disclosed or suggested by Graham. To the contrary, Graham discloses that “tank housing 60 resembles a rectangular prism...” (Col. 8, lns 61-62). Moreover, all of the Figures in Graham depict a substantially rectangular enclosure. (Figure 3a – Figure 7).

In contrast, the open top has a larger area than an area of the floor, so the walls are configured to lean away from the equipment in order to perform the important function of directing the force of an explosion upwards. As a result, in the event of a hydrogen leak that forms an explosive mixture within the structure, the structure may be able to withstand a resulting explosion or detonation and direct the heat and forces upwards, partially or fully protecting human life and property outside the structure. Moreover, the disclosed configuration may reduce the loading on walls in the event of an explosion within structure. The vertical, rectangular walls disclosed by Graham will not perform equally well.

Thus, Graham does not teach or suggest at least “said structure having an enclosure, a floor, and an open top, wherein said open top has a larger area than an area of said floor”, as recited in claim 16. Thus, Applicant respectfully requests that the Section 102(e) rejection of claim 16 be withdrawn.

Claims 17-26 depend from claim 16, and contain all of the elements thereof and are differentiated from the cited reference for at least the same reasons as set forth above, in addition

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to their own respective features. Thus, Applicant respectfully requests allowance of claims 17-26.

**B. Independent Claims 27 and 44**

The Examiner contends that “absent further defined structure of ‘substantially sealed’, Graham et. al. is substantially sealed compared to a system with no covering.” (Office Action, page 3). However, as discussed above, the specification appropriately defines “substantially sealed.”

Graham does not disclose an enclosure sealed such that hydrogen cannot leak out of the enclosure. To the contrary, Graham teaches away from a “substantially sealed” enclosure. Graham discloses a housing that is “configured and positively ventilated with external air to prevent the accumulation of leaked hydrogen.” (Abstract) Graham further discloses that its protective enclosure 18 has an external air inlet 24 at the base of the station 2, and a ventilation air outlet 28 at the top of station 2. Outside air is sucked in through the external air inlet 24 and an air flow path inside the station 2 extends from the air inlet 24 to the ventilation air outlet 28 to discharge leaked hydrogen away from the station. (See Col. 4, lns 61-67). Thus, if the protective enclosure 18 of Graham were substantially sealed, the hydrogen removal functionality would be destroyed. Thus, Graham teaches away from a hydrogen fueling system having a substantially sealed enclosure.

As such, Graham does not teach or suggest at least a “substantially sealed enclosure” as recited in amended claims 27 and 44. Therefore, in view of the remarks above, Applicant respectfully requests that the Section 102(e) rejection of claims 27 and 44 be withdrawn.

Claims 28-40 variously depend from amended independent claim 27 and contain all of the elements thereof and are differentiated from the cited reference for at least the same reasons as set forth above, in addition to their own respective features. Thus, Applicant respectfully requests allowance of claims 28-40.

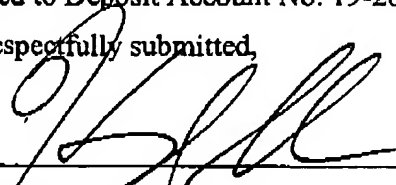
**CONCLUSION**

In view of the above remarks and amendments, Applicant respectfully submits that all pending claims properly set forth that which Applicant regards as his invention and are allowable over the cited references. Accordingly, Applicant respectfully requests allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner’s convenience, if

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that would help further prosecution of the subject application. Applicant authorizes and respectfully requests that any fees due be charged to Deposit Account No. 19-2814.

Respectfully submitted,



Dated: June 21, 2006

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